

ORDINANCE NO. 4790

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO CHAPTER 9.40 - MISCELLANEOUS UTILITY SERVICES ADDING A NEW SECTION 9.40.475 ENTITLED "USE OF SPARE AND JOINT USE CONDUITS" AND AMENDING SECTIONS 9.40.500 AND 9.110.050 OF THE ELLENSBURG CITY CODE.

WHEREAS, the use of spare, joint use or abandoned city conduits for telecommunications purposes is in the public interest; and

WHEREAS, the amendments in this ordinance were reviewed by the city's Utility Advisory Committee at its February 15, 2018 meeting, which recommended adoption of the changes by the City Council;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

**Section 1.** A new section entitled "9.40.475 - Use of spare or joint use conduits" is hereby added to Chapter 9.40 of the Ellensburg City Code to read as follows:

**9.40.475 Use of Spare or joint use conduits.**

A. The city owned telecommunications utility may use spare conduits and jointly use primary and secondary conduits owned by the city electric utility, and the city owned telecommunications utility may jointly use secondary conduits owned by the city for street lighting, for the installation of telecommunications facilities.

B. The city owned telecommunications utility shall pay a conduit licensing fee in accordance with ECC 9.92.100 for the use of spare or joint use conduits when customers are receiving telecommunications services.

C. Installation of telecommunications facilities in primary or secondary conduits owned or under the exclusive control of the city electric utility shall be performed by qualified electrical employees.

D. Priority to the restoration of damaged joint use conduits shall be given to city light customers, then to telecommunications customers.

E. Other entities may use spare conduits and jointly use primary and secondary conduits owned by the city for telecommunications facilities, subject to a determination by the energy services director that there is excess capacity and such use is in accordance with ECC 9.05.100. Other entities shall pay a conduit licensing fee in accordance with ECC 9.92.100 for the use of spare or joint use conduits when customers are receiving telecommunications services. The city shall not be responsible for locating or repairing spare conduits used by other entities. Priority to the restoration of damaged joint use conduits shall be given to city light customers, then to telecommunications customers, and then to other entities.

**Section 2.** Section 9.40.500 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4503, is hereby amended to read as follows:

**9.40.500 Abandoned utility services.**

A. The city, at its option, may abandon in place or remove city-owned utility equipment from any building or property where utility service has not been utilized for more than one year. Any such building or property shall thereafter be required to apply for utility service(s) as if it had never had a previous utility service.

B. If authorized by the utility director, conduits, water piping, natural gas piping, sewer piping, and stormwater piping that have been abandoned by the city may be used for telecommunications facilities at no charge.

C. The city shall not be responsible for locating or repairing abandoned utility services.

D. The utility director shall determine if an easement, or permit in accordance with Chapter 4.06 ECC, is required prior to the use of abandoned utility services for telecommunications facilities.

[Ord. 4503 § 2, 2007.]

**Section 3.** Section 9.110.050 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4777, is hereby amended to read as follows:

**9.110.050 Transfer of property.**

A. All telecommunication facilities, equipment, property, and property rights and interests in the right-of-way to the point of delivery, owned or acquired by the city for the purpose of the institutional network, insofar as they relate to or concern telecommunications, are hereby

transferred to the telecommunications utility. All telecommunication facilities, equipment, property, and property rights and interests in the right-of-way to the point of delivery currently owned by the city for the purpose of traffic signal interconnection shall be owned and maintained by the general fund.

B. Any future transfer or sale of the telecommunications utility shall be conditioned upon continued ownership in perpetuity by the city of any joint use primary or secondary conduits.

[Ord. 4777 § 1, 2017; Ord. 4658 § 1, 2013.]

**Section 4. Severability.** If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

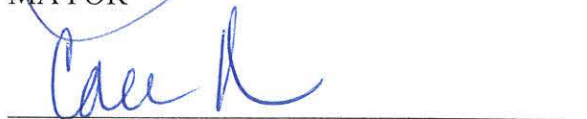
**Section 5. Corrections.** Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 6. Effective Date.** This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 19 day of March, 2018.



MAYOR



CITY CLERK

ATTEST:

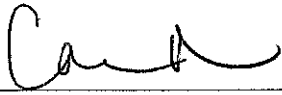
Approved as to form:



CITY ATTORNEY

Publish: 3-22-18

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4790 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4790 was published as required by law.



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COREEN M. RENO